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November 3, 2023

Via ECF

Honorable Sarah Netburn
United States Magistrate Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Victor's Cafe 52nd Street, Inc. v. The Travelers Indemnity Company of America,*
S.D.N.Y., Civil Action No. 1:22-cv-07223-ALC-SN

Dear Judge Netburn:

Please accept this letter as the response of Defendant The Travelers Indemnity Company of America ("Travelers") to the Court's Order dated October 27, 2023 directing the parties "to submit simultaneous letters ... addressing whether the Court has jurisdiction to select an umpire, or whether the parties need to file an application to a New York County Supreme Court justice." (Dkt. 50).

Plaintiffs raised the jurisdictional issue regarding this Court's jurisdiction to appoint an umpire in their opposition to Travelers' motion to appoint an umpire. Ultimately, Plaintiffs did not take a position on the issue, "leav[ing] that question to this court to decide whether to appoint an umpire or direct the parties to make the requisite application to a state court judge." (Dkt. 48).

Without admitting that this Court lacks jurisdiction to appoint an umpire and expressly reserving all rights as to this Court's jurisdiction on all other issues relevant to this litigation, and to avoid further litigation and uncertainty as to this issue, Travelers agrees to submit an application for the appointment of an umpire "to a justice of the supreme court residing in the county or to a county judge of the county in which the lost or damaged property is or was located" in accordance with N.Y. Ins. § 3408. Travelers respectfully requests that Plaintiffs' claims in the Complaint of this action be stayed pending the appointment of an umpire and the appraisal.



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Respectfully,

/s/ Glenn Greenberg

Glenn Greenberg

cc: Craig Blumberg, counsel for Plaintiff (*via* ECF)